MT LEGISLATIVE HISTORY

Chapter 202 1993

Bill H _____ (S) 123 Original bill & hist. ___C

H. Committee on Labor and Employment Relations S. Committee on Labor & Employment Relations

Hearing Date(s)			Hearing Date(s)		
	Feb 23	✓C		Jan 22	✓C
	Feb 28	✓C		Jan 29	✓C
	_____	___C		Feb 02	✓C
	_____	___C		_____	___C
Date Out	Feb 28	✓C		Feb 02	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius January 29, 1973 at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: All members present with Senator Moore being excused.

Mr. James Carden of the Workmen's Compensation Division was present to go over these bills with the Committee members.

Discussion of SB 123: There is an error in this bill and the amendment was submitted to the Committee. (Amendment on Page 1, line 25). The Governor's Council followed the minimum requirements of the National Commission in drafting these bills. Allows 66 2/3% of the wages at the time of the injury, with a maximum that does not exceed the state's maximum. At no time could he receive more than $130 per week. Allows for complete credit on Social Security benefits.

Senator Lowe asked if they could collect on both welfare and Workmen's Compensation? No. The Division is constantly checking with the State Welfare Department, as well as local offices. There would be no intentional duplicity.

Senator Shea asked how Montana compared with neighboring states. We are lower than Washington. Mr. Wood stated that Idaho just recodified their laws and we are substantially below Idaho. Their maximum is around $160.

Senate Bill 129: Amendment on Page 1, lines 23 and 24. 66 2/3% of the worker's wage at the time of injury, disregarding dependency. He could possibly make more money tax-free than when he was working if he collected workmen's compensation benefits and Social Security benefits. Bill allows after 26 weeks, that if a worker did receive Social Security it would be offset 50%. The average time for total temporary disability in Montana is about 13 weeks.

The purpose of this was to try to adjust the compensation rate to the person's income. This would bring us into compliance to July, 1975.

Senator McNamer inquired if there is a federal law, at this time, requiring us to pass this legislation. Mr. Carden stated that no, at the present time there is no federal law but there will be in the future; no one can say for sure when. It could be this session of Congress or 2 or 3 years hence. These are just the recommendations of the National Commission.

Senator Jensen asked if it would be possible to make more than when the injured person was working. Carden replied, yes, so the law would be that with all benefits he would not exceed 80% of the wage.

Mr. Kirkpatrick of the Montana Woods Products Association offered an amendment to SB 129. The amendment would be page 1, line 21 following the words weekly wage "and during the first 26 weeks shall not exceed $80." Since 1965 the increase in maximum benefits has increased from $50 to $80 or approximately 60%. The total cost increase of these plans would be about 62%. Compensation costs are a tremendous cost to the employer. If these were the only increases we were to receive I would say go ahead but there will be all types of increases to industry this year, such as reclamation, pollution, etc.

Mr. Carden stated that these bills have been drafted to attempt to comply with the President's Commission.

Mr. McDonald of the Anaconda Company concurred with Kirkpatrick on the cost. In Senate 123 rather than a cost increase of 15% as stated by the Actuary it would result in a 25% increase to ACM and in Senate Bill 129 instead of a 20% increase it would be closer to a 55% increase to ACM. He suggested that industry be allowed to take these increases in steps a year at a time so that they are not too great a burden on the employers of the state.

Mr. Holding of the St. Regis Paper Company concurred with the above two men. The employer has no opportunity to choose his cost increases in this legislative session.

Senator Bennett asked if the 26 weeks period was for a specific injury. Mr. Carden stated that it was for actual loss of a member.

Mr. Jim Murray of the AFL-CIO stated that representatives of labor and management and almost all of the industries in Montana were represented on the Governor's Council. We bargained and thought we had a pretty well balanced plan that everyone could live with. These bills had to come out of the Council with a unanimous vote of the members.

Mr. McDonald stated for the record that the mining industry was not represented.

Senate Bill 130: Minimum guidelines set forth by the Commission. Two-thirds of the weekly wage, not to exceed the average weekly wage, for no more than 600 weeks.

Senator Lowe inquired if there are no beneficiaries? The mother and father who are not dependent upon the decedent would receive a flat $3,000. Also a contribution of $1,000 to the second injury fund. (Amendment page 2, line 4.)

If a woman remarries she is entitled to a 2 year lump sum.

SENATE BILL 121: Senator Keenan moved, seconded by Senator Jensen that SB 121 DO PASS. Motion carried.

SENATE BILL 122: Senator Shoe moved, seconded by Senator Keenan that SB 122 DO PASS. Motion carried.

SENATE BILL 123: Senator Bennett moved, seconded by Senator Mallamer that the amendment on Page 1, Section 1, line 25 be accepted. Motion carried.

Senator Keenan moved, seconded by Senator Jensen that SB 123 DO PASS AS AMENDED. Motion carried, Senator Lowe opposing.

Senator Lowe moved that on Page 1, line 20 and 21 be amended by striking the words "the state's average weekly wage." and inserting in lieu thereof the word and figure "eighty-five dollars ($85))"

Chairman Siderius resisted the motion. Motion made and seconded that SB 123 DO PASS AS AMENDED. Motion carried, Senator Lowe opposing.

SENATE BILL 124: Chairman Siderius had an amendment to SB 124 but the hour being 1:30 Senator Jensen moved to adjourn, seconded by Senator Keenan. Motion carried.

This committee will meet on Monday, February 5, at 12:00 Noon.

SENATOR GEORGE SIDERIUS, CHAIRMAN

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SENATE COMMITTEE Labor & Employment Relations

Date 2/2/73 Senate Bill No. 113-138 Time 12:00 Noon

NAME	YES	NO
Art Jensen		X
Bill Bertsche		X
Elmer Flynn		X
L.J. Keenan		X
Jimmy Rhea		X
George Bennett	X	
Matt Hinsl	X	
Bill Love	X	
Jim Rivers	X	
William McKeever	X	
George Siderius, Chairman		

Secretary Louise Sullivan

Chairman George Siderius

Motion: Senator Bennett moved that all of these bills, 113 through 138, be referred to Judiciary for the purpose of cleaning up the language. Motion seconded by Senator Love. Motion failed on tie vote. Chairman Siderius wishes to be shown as opposing the motion.

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SENATE COMMITTEE Labor & Employment Relations

Date 2/2/72 Senate Bill No. 113-118 Time 12:00 Noon

NAME	YES	NO
Art Jensen		X
Bill Bertsche		X
Elmer Flynn		X
P.J. Keenan		X
Jimmy Rhea		X
George Bennett		X
Matt Himsl	X	
Bill Love	X	
Jim Moore	X	
William McNamar	X	
George Siderius, Chairman		

Secretary Louise Sullivan Chairman George Siderius

Motion: Senator Love made the motion that this packet of labor bills be studied for action to be taken at the 1974 session. Senator Himsl seconded the motion. Motion failed 6-4.

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SENATE COMMITTEE Labor & Employment Relations

Date 2/2/73 Senate Bill No. 123 Time

NAME	YES	NO
Art Jensen	X	
Bill Bertsche	X	
Elmer Flynn	X	
P.J. Keenan	X	
Jimmy Shea	X	
George Bennett	X	
Matt Himsl	X	
Bill Lowe		X
Jim Moore	X	
William McNamar	X	
George Siderius, Chairman		

Secretary Louise Sullivan

Chairman George Siderius

Motion: SB 123 DO PASS AS AMENDED

February 23, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS

A meeting of the Labor and Employment Relations Committee was held on Friday, February 23, 1973 at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Colberg and Lee, who were excused.

SENATE BILL # 123 -- SPONSOR: Sen. McKeon said that the bill provides for total permanent disability to receive compensation under the Workmen's Comp. Act. Sen. Siderius endorsed the statements made by Sen. McKeon. Jim Murry, AFL-CIO, supports all of these bills (113-138) minus the Senate amendments. Jim Carden said that it pays 66 2/3% of an injured worker's earnings, not to exceed the state average, under this bill. It provides that any Social Security the injured worker receives will be credited against the Workmen's Comp. benefits. Questions followed. Mr. Neil Keefer, Governor's Advisory Committee, -- drafted the bulk of this package of bills. He helped answer some of the Committee's questions on this and the following bills.

SENATE BILL # 124 -- SPONSOR: Sen. Siderius said that when it was acted on by the Senate Committee, it was amended to have farmers covered. On the floor, in order for the bill to be passed the amendments had to be withdrawn. He urged re-adoption of the amendments. Questions followed.

SENATE BILL # 125 -- SPONSOR: Sen. Siderius introduced Jim Carden, Workmen's Comp., who explained this and some of the following bills. The bill amends the present definition of "independent contractor" to be more liberal. Questions followed. Robert Helding, St. Regis Paper Company, helped answer some of the questions.

SENATE BILL # 126 -- SPONSOR. Sen. McKeon. Jim Carden said that it extends the benefits beyond the three year period for totaly permanently disabled workers, in line with the recommendations of the President's Commission. The amendments are allowing, on the showing of a good cause, extensions beyond the three years. The bill doesn't have a large cost factor, because a majority of the cases are resolved in a year and a half. Rep. Driscoll said that the bill should be amended to become retroactive. Questions followed. Jim Murry spoke for the Montana Hospital Assoc. in saying that they preferred it to be handled on a fiscal year basis rather than a calendar year.

SENATE BILL # 127 -- SPONSOR: Sen. McKeon. Jim Carden said that it has to do with a recovery from a third party action that may arise out of negligence. Under the current law, an employee may sue that third party. The insurance carrier may recover up to 50% of the compensation paid to him. To offset the cost of this package of bills, the rate of recovery by the insurance carrier has been changed to up to 100%. Neil Keefer spoke on it -- he wanted the Committee to either kill the bill or strike the Senate amendments. The amendment on page 3, line 19 of the bill was drawn up as a compromise. Questions followed.

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WITNESS STATEMENT

Name James Carroll Date

Address Helena Support ? ✓

Representing W.C.D. Oppose ?

Which Bill ? All Amend ?

Comments:

Please leave prepared statement with the committee secretary.

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NAME James W. Murry

ADDRESS P.O. Box 1176
Helena, Mont

DATE

WHOM DO YOU REPRESENT? Mont. State AFL-CIO

SUPPORT? OPPOSE? AMEND? ✓

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

We support these bills, but without the Senate amendments

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NAME Neil S. Keeler BILL No.

ADDRESS 423 Hart Allen Bldg. DATE

Billings, Montana

WHOM DO YOU REPRESENT? Governor's Advisory Committee

SUPPORT? ✓ OPPOSE? AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Support legislative package as drafted by Governor's Advisory Committee. Delete Senate amendments.

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WITNESS STATEMENT

Name Bob Helding Date 2-25-73

Address 2328 Clarendon - Missoula Support ?

Representing St Regis Paper Co. Oppose ?

Which Bill ? SB 121 - 138 Amend ?

Comments:

Please leave prepared statement with the committee secretary.

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SB # 131: Rep. Turner moved, Colberg seconded that it BE CONCURRED IN. Motion carried unanimously.

SB # 132: Rep. Colberg moved that it BE CONCURRED IN. Motion carried unanimously.

SB # 133: Rep. Hodges moved that it BE CONCURRED IN AS AMENDED by the Governor. Discussion followed, Rep. Lee seconded the motion. Motion carried unanimously.

SB # 134: Rep. Lee moved that it BE CONCURRED IN. Colberg seconded it; motion carried unanimously.

SB # 135: Rep. Ellerd moved, Lee seconded, that it BE CONCURRED IN. Motion carried unanimously.

SB # 136: Rep. Tierney moved, seconded by Lee, that it BE CONCURRED IN. Motion carried unanimously.

SB # 137: Discussion took place. Rep. Turner moved and Colberg seconded that it BE CONCURRED IN. Motion carried unanimously.

SB # 138: Rep. Baeth moved, Tierney seconded, that it BE CONCURRED IN. Motion carried unanimously. (Chairman McKittrick then returned

SB # 123: Rep. Colberg moved, Hodges seconded, that it BE CONCURRED IN. Discussion followed. Motion carried; East opposed.

SB # 124: Rep. Lombardi moved, Tierney seconded, that subsection (7) be reinstated in its entirety. Discussion; motion was then carried with Hodges, Turman and Tierney opposed. Lombardi moved, Colberg seconded, that it BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SB # 125: Rep. Baeth moved, Lee seconded, that it BE CONCURRED IN. Motion carried unanimously.

SB # 126: Rep. Lee moved, Baeth seconded, that it BE CONCURRED IN. Motion carried unanimously.

SB # 127: Rep. Baeth moved, seconded by Turman, that the stricken language on p. 3 lines 19-25 be reinstated; discussion followed. Motion carried unanimously. Baeth moved to amend on page 4, lines 21-25 by reinstating the stricken material there-also the first word on p. 5. Seconded by Turman. Motion carried; Bell opposed. Baeth moved, Colberg seconded, that it BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SB # 128: Rep. Hodges moved to reinstate on p. 1, lines 22-24 the material therein. Colberg seconded it; motion carried; East opposed. Hodges moved it BE CONCURRED IN AS AMENDED; Lombardi

Laws and Resolutions

OF THE

STATE OF MONTANA

PASSED BY THE

Forty-third Legislative Assembly

In Regular and Special Session

Held at Helena, the Seat of Government of Said State,
First Regular Session
January 1, 1973 to March 10, 1973
Special Session
March 12, 1973 to March 24, 1973

PUBLISHED BY AUTHORITY

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OF MONTANA

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 23-3023, R.C.M. 1947, is amended to read as follows:

"23-3023. **Printing of list of electors shown on precinct registers.** (1) The registrar shall have a list printed of all registered electors shown on the precinct registers of the county or city ten (10) days or more preceding any election.

(2) The list shall show the name of the elector in full, the number and street of his residence if he resides within a city, his post-office address if he resides outside a city, and the registry number.

(3) A copy of the list of registered voters shall be posted at the polling place. Sufficient copies of the lists shall be retained by the registrar and furnished to an elector upon request.

(4) If no declarations of nomination have been filed forty (40) days before a primary election of city offices, the city clerk shall immediately notify the registrar in writing and the list of registered electors for the city shall not be printed.

(5) The list of registered voters prepared for a primary election may be used for the general election only if a supplemental list giving the names of electors who have registerd after the first list was preparcd is printed.

(6) The expense of printing this list shall be paid by the county or city in which the election is to be held."

Approved: March 7, 1973.

CHAPTER NO. 202

An Act Providing Compensation For Injuries Producing Total Permanent Disability Under the Workmen's Compensation Act; Repealing Section 92-702, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-702.1, R.C.M. 1947, which reads as follows:

92-702.1. **Compensation for injuries producing total permanent disability.** Weekly compensation benefits for injury producing total permanent disability shall be sixty-six and two-thirds percent (66⅔%) of the wages received at the time of the injury.

The maximum weekly compensation benefits shall not exceed the state's average weekly wage. Total permanent disability benefits shall be paid for the duration of the worker's total permanent disability.

In cases where it is determined that periodic benefits granted by the Social Security Act, 42 U.S.C. 301 (1935), are payable because of the injury, the weekly benefits payable under this section shall be reduced by the amount of the federal periodic benefits for such week.

Section 2. Section 92-702, R.C.M. 1947, is repealed.

Approved: March 8, 1973.

CHAPTER NO. 203

An Act Providing Compensation For Injuries Causing Death Under the Workmen's Compensation Act; Repealing Section 92-704, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-704.1, R.C.M. 1947, which reads as follows:

92-704.1. **Compensation for injury causing death.** Weekly compensation benefits for injury causing death shall be sixty-six and two-thirds percent (66⅔%) of the decedent's wages. The maximum weekly compensation benefits shall not exceed the state's average weekly wage. The minimum weekly compensation for death shall be fifty percent (50%) of the state's average weekly wage, but in no event shall it exceed the decedent's actual wages at the time of his death.

Death benefits shall be paid to a widow or widower for life or until remarriage, and in the event of remarriage two (2) years' benefits shall be paid in a lump sum to the widow or widower. In all cases, benefits shall be paid to beneficiaries as defined in this act.

In cases where it is determined that periodic benefits granted by the Social Security Act, 42 U.S.C. 301 (1935), are payable because of the injury causing death, the weekly benefits payable under this section shall be reduced by the amount of the federal periodic benefits for such week.

Section 2. Section 92-704, R.C.M. 1947, is repealed.

Approved: March 8, 1973.